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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,710	11/30/2001	Jean-Pierre Martel	BDL-53	7199
20311	7590	11/05/2003		
MUSERLIAN AND LUCAS AND MERCANTI, LLP 475 PARK AVENUE SOUTH NEW YORK, NY 10016			EXAMINER YEUNG, GEORGE CHAN PUI	
			ART UNIT 1761	PAPER NUMBER
			DATE MAILED: 11/05/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/998,710

Applicant(s)

Martel et al

Examiner

George Young

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days ~~MONTHS~~ FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-21 are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-21 are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
  - ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, drawn to a process for the processing of fruits of the type comprising oil-producing drupes, classified in class 426, subclass 241.
- II. Claims 11 and 12, drawn to an apparatus for the processing of whole oil-producing drupes, classified in class 99, subclass 451.
- III. Claims 13-15, drawn to a drupe oil, classified in class 554, subclass 8.
- IV. Claim 16, drawn to a drupe pulp paste, classified in class 426, subclass 481.
- V. Claim 17, drawn to volatile aromatic compounds or flavors recovered from drupes, classified in class 426, subclass 650.
- VI. Claim 18, drawn to the use of drupe oil, classified in class 426, subclass 601.
- VII. Claim 19, drawn to the use of drupe pulp paste, classified in class 426, subclass 635.
- VIII. Claim 20, drawn to the use of the woody shells of the stones as a fuel, classified in class 44, subclass 605.
- IX. Claim 21, drawn to the use of the kernel press cake as a food source, classified in class 426, subclass 615.

The inventions are distinct, each from the other because:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be

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practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Group I as claimed can be used to practice another and materially different process, e.g., for use in obtaining oil and pulp from plant materials such as soy beans, sunflower seeds, and peanuts.

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the drupe oil product of Group III as claimed can be made by another and materially different process, e.g., a process which includes the use of a squeezing device.

Inventions I and IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the drupe-pulp paste product of Group IV as claimed can be made by another and materially different process, e.g., a process which includes the use of a ginning machine and a pair of cylinders with streaks.

Inventions I and V are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2)

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that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the volatile aromatic product of Group V as claimed can be made by another and materially different process, e.g., a process which includes mixing ground drupe materials with an organic solvent such as hexane or petroleum ethers so as to obtain a volatile aromatic compound contained in this solvent.

Inventions III and VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the drupe oil product of Group III as claimed can be used in a materially different process of using that product, e.g., for use as a lubricating agent.

Inventions IV and VII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the drupe-pulp paste product of Group IV as claimed can be used in a materially different process of using that product, e.g., for use in making paper or cardboard.

Inventions I and VIII are related as process of making and process of using the product. The use as claimed cannot be practiced with a materially different product.

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Since the product is not allowable, restriction is proper between the process of making and process of using.

Inventions I and IX are related as process of making and process of using the product. The use as claimed cannot be practiced with a materially different product. Since the product is not allowable, restriction is proper between the process of making and process of using.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art requiring separate searches as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication from the examiner should be directed to Examiner George C. Yeung whose telephone number is (703) 308-3848. The examiner can generally be reached on Monday-Friday from 10:30 a.m. to 7:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

G.C. Yeung/dh  
October 30, 2003

A handwritten signature in black ink, appearing to read "George C. Yeung". The signature is fluid and cursive, with the first and last names being more prominent.

**GEORGE C. YEUNG  
PRIMARY EXAMINER**